

Appl. No. : 10/747,812  
Filed : December 29, 2003

### REMARKS

Claims 1-3 and 6-30 are pending in the present application, with Claims 4 and 5 being canceled, Claims 1, 6, and 10 being amended, and Claims 22 through 30 being added with this amendment. Reconsideration of the application in view of the foregoing amendments and following comments is respectfully requested.

#### Rejection of Claims 1, 2, 4, and 7-21 under 35 U.S.C. 102(b) as being anticipated by McCullough

The Examiner has rejected Claims 1, 2, 4, and 7-21 as being anticipated by McCullough (U.S. Patent No. 5,049,349). Applicants submit that McCullough does not disclose at least the process of independent Claim 1 or the apparatus of independent Claim 10.

McCullough discloses a system wherein a preform is blow-molded into a box or container and then the finished, but empty, bag in a box is filled with product. In contrast, Claim 1 is directed to a preferred embodiment, and recites, in part, "placing the *filled* pouch in a rigid container". Accordingly, McCullough does not teach every element of Claim 1, nor does it suggest the combination of elements in Claim 1. Furthermore, McCullough does not teach or suggest releasing the neck or pouch from the box into which it was formed. Accordingly, McCullough does not teach every element of Claim 10, nor does it suggest the combination of elements in Claim 10. Therefore, Claims 1 and 10 are patentable over McCullough. Dependent Claims 2, 3, 6-9, and 11-21 are also patentable over McCullough for the reasons set forth for their respective independent claims and also because each claim recites a novel and unobvious combination of elements.

#### Rejection of Claims 1 through 6 under 35 U.S.C. 103(a) over Edwards and Gokcen et al.

The Examiner has rejected Claims 1 through 6 as being obvious under 35 U.S.C. 103(a) over Edwards in view of Gokcen et al. By responding to this rejection, applicant does not concede that the Edwards reference is prior art, accordingly Applicant reserves the right to swear behind this reference at a later date if desired.

The Examiner states that Edwards does not disclose "the specific process of forming and filling the flexible pouch prior to conveying the pouch to the decorating station" and that Gokcen et al. teaches "a process of blow molding (21) a preform (18) having a neck portion into a flexible pouch (36) having a neck finish". The Examiner further states that it would have been obvious to "modify the process of Edwards to include the method of blow molding and filling a flexible pouch, as taught by Gokcen et al." Applicant respectfully disagrees.

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Gokcen et al. teach a method of making a pouch by expanding a parison (18) into a mold. The parison (18) is clamped (30) to seal one end and then blow molded to form a pouch (36). The parison (18), as illustrated prior to blow molding in Figures 6 and 7, does not have a neck portion. Accordingly, the combination of Edwards and Gokcen et al. does not teach every element of Claim 1 such that the combination does not render this claim obvious. Dependent Claims 2, 3, and 6 are also patentable over the combination of Edwards and Gokcen et al. for the reasons set forth for Claim 1 and also because each claim recites a novel and unobvious combination of elements.

Applicant respectfully submits that new Claims 22-30 are also patentable over the references of record.

### CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, Examiner is cordially invited to contact the undersigned so that any such matters may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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